
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Revision No. 2029 of 2007

Date of decision: 18.12.2007

Pankaj and others

...Petitioners

Versus

Avtar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Raman B. Garg, Advocate for the petitioners.

Mr. Suresh Ahlawat, Advocate for respondent No. 2

Mr. Balkar Singh, Advocate for respondent no.3.

Mr. Gaurave Bhayya, Advocate for respondents No. 4 and 5.

RAJESH BINDAL, J.

The petitioners/plaintiffs have filed the present petition before this Court challenging the order dated February 1, 2007 passed by learned Lower Appellate Court whereby that of the trial Court was reversed in an application filed under Order 39 Rule 1 and 2 of the Code of Civil Procedure.

The dispute in the present case is regarding opening of vend dispensing Vita milk and other milk products in the Housing Board Complex, Sector 14, Panchkula.

Learned counsel for the petitioners submitted that well reasoned order passed by learned trial Court was reversed by learned Lower Appellate Court on flimsy grounds. The petitioners are buyers of shops and carrying on their business there. However, without any authority of law, booth has been opened in the complex without permission from competent authority. The allotment was made by few members of the society including respondent No. 7 Jagat Singh in favour of his son and accordingly, respondents No. 2 to 7 should be restrained from permitting to

carry on the business of sale of milk or milk products in the booth. It is further alleged that under the garb of permission to sell Vita milk or milk products, respondent no. 7 had started selling other items of day to day need including Kiryana etc. It is in violation of the permission granted to him even if for the argument sake, the same is considered to be valid. On the other hand, learned counsel for the respondent No. 5 submitted that milk booth was permitted to be opened for the facility of the residents of the society, so as to enable them to have the supply of milk in the early morning. Respondent no.1 has not been permitted to sell any other item except milk or milk product manufactured by respondent no.3 and in case it is found that he was indulging in sale of any other commodity, he will immediately be shunted out.

Having heard learned counsel for the parties and without opining on the merits of the controversy raised between the parties, I am of the view that during the pendency of the suit, respondent no.1 be permitted to sell milk or milk products manufactured by the Haryana Dairy Development Federation Ltd., so that day to day needs of the residents of the society regarding that are not affected. However, in terms of statement of the counsel representing the society, respondent no.1 is restrained from selling any other item except mentioned above and in case he is found selling the same, he would immediately be shunted out and the permission granted to respondent no.1 shall be withdrawn by them.

The order passed by learned Lower Appellate Court is modified to the extent above and the revision petition is disposed of accordingly.

December 18, 2007
Pka

(Rajesh Bindal)
Judge